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Serial No.: 10/806,286

Response to Official Action dated 5 October 2005

**REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the Official Action dated 5 October 2005. Responsive to the objections made in the Official Action, Claims 1 and 4 have been amended to clarify the language thereof and the combination of elements which form the invention of the subject Patent Application. Additionally, Claims 2, 5 and 6 have been cancelled by this Amendment.

In the Official Action, The Examiner objected to the Specification due to several informalities therein. Accordingly, the Specification has been amended to correct those informalities kindly noted by the Examiner.

In the Official Action, the Examiner rejected Claims 1 – 3 under 35 U.S.C. § 112, second paragraph. The Examiner indicated that the phrase “for engagement with a surface” was unclear as to what surface was being referred to. Accordingly, Claim 1 has been amended to correct the language thereof. The phrase which was unclear has now been removed from the claim and therefore, it is now believed that the claims particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

In the Official Action, the Examiner rejected Claims 1 – 3 under 35 U.S.C. § 102(b), as being anticipated by either of Benson, U.S. Patent No. 1,771,765, or Varano, U.S. Patent No. 6,364,201.

Before discussing the prior art relied upon by the Examiner, it is believed beneficial to first briefly review the structure of the invention of the subject Patent

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Application, as now claimed. The invention of the subject Patent Application is directed to a paper container which includes a base disk having an upwardly bent peripheral edge portion. The paper container further includes a peripheral wall having a ledge extending from a bottom edge of the peripheral wall and positioned to engage with a bottom face of the base disk. A side wall integrally formed with and adjacent to the ledge has an inner surface to engage with the upwardly bent peripheral edge of the base disk above the position of the ledge. The peripheral wall has an annular knurl formed between the ledge and the sidewall and extending below the position of the ledge to form an annular space between a portion of the peripheral wall adjacent the knurl and the base disk for providing heat isolation thereto. The peripheral wall has a lip ring formed on a top edge of the peripheral wall.

In contradistinction, the Benson reference is directed to a water proof receptacle having a sidewall member 1 with an inwardly flaring flange 1' to engage a bottom piece 2 having a corresponding **down turned flange 2'** surrounding a central portion thereof. The down turned flange of the bottom portion is cemented to the upturned flange 1' of the wall portion to be in contiguous contact therewith, with no annular space being formed therebetween. Surrounding the outer wall, and spaced therefrom is a sleeve member 3, which may have an upturned bottom portion 3c which contiguously contacts the upturned flange 1' of the wall 1, again providing no annular space between a portion of the peripheral wall adjacent the knurl and the base disk, as now claimed. Therefore,

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as the Benson reference fails to disclose each and every one of the elements of the invention of the subject Patent Application, it cannot anticipate that invention. Further, as the reference fails to suggest such a combination of elements, and in fact teaches away from that combination, it cannot make obvious that invention either.

It is respectfully submitted that the Varano reference is directed to a disposable all-purpose container assembly. The cup 12 has a substantially circular raised bottom wall 16 and a frustoconical sidewall 18. The bottom wall 16 is formed with a downwardly bent peripheral skirt 28 and the sidewall 18 has a bottom edge which is rolled to form a U-shaped flange to receive the skirt 28 therein. While the skirt may not fully fill the lip formed by the rolled bottom edge of the sidewall, the reference clearly fails to disclose a base disk having an upwardly bent peripheral edge portion, and a peripheral wall having a ledge extending from a bottom edge of the peripheral wall and positioned to engage with a bottom face of the base disk, and the inner surface of the peripheral wall being engaged with the upwardly bent peripheral edge of the base disk above the position of the ledge, as now claimed. Further, the reference fails to disclose an annular knurl formed between the ledge and the sidewall and extending below the position of the ledge to form an annular space between a portion of the peripheral wall adjacent the knurl and the base disk for providing heat isolation thereto, as now claimed. Therefore, as the reference fails to disclose each and every one of the elements of the invention of the subject Patent Application, it cannot anticipate

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~~that invention.~~ Further, as the reference fails to suggest such a combination of elements, and in fact teaches away from that combination, it cannot make obvious that invention either.

In the Official Action, the Examiner rejected Claims 1 – 3 under 35 U.S.C. § 103, as being unpatentable over Thiebaut, U.S. Patent No. 1,968,270, in view of Shuey, U.S. Patent No. 2,032,815. The Examiner states that the Thiebaut reference discloses a base disk having a ledge formed by the upper edge of the section 5, a knurl, and a sidewall. The Examiner further states that a space is formed between the horizontal portion of the base disk and the sidewall below the horizontal portion. The Examiner admits that the reference does not disclose a lip ring. The Examiner then refers to the Shuey reference that is known in the art to make a container with an upper curl or lip ring.

It is respectfully submitted that the Thiebaut reference is directed to a container having a body portion or side wall 1 with a bottom flange 5 which is bent inward and upwardly to form a support for the disk bottom 6. The disk bottom 6 is formed with four tabs 7 which extend outwardly therefrom downwardly bent to be glued to the sidewall 1 adjacent the upwardly bent flange 5 thereof. Thus, the reference fails to disclose a base disk having an upwardly bent peripheral edge portion, as now claimed, and while the distal end of the flange 5 contacts the base disk, such hardly constitutes a flange extending from a bottom edge of the peripheral wall and positioned to engage with a bottom face of the base disk, as claimed. Still further, the reference fails to disclose or suggest a

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sidewall integrally formed with and adjacent to the ledge and having an inner surface to engage with the upwardly bent peripheral edge of the base disk above the position of the ledge, an annular knurl formed between the ledge and the sidewall and extending below the position of the ledge to form an annular space between a portion of the peripheral wall adjacent the knurl and the base disk for providing heat isolation thereto, as now claimed.

The Shuey reference does not overcome the deficiencies of Thiebaut. The Shuey reference is directed to construction of a cup but fails to disclose such features as the base disk having an upwardly bent peripheral edge portion which engages a sidewall portion of the peripheral wall above the position of a ledge. Further, the reference fails to disclose or suggest an annular knurl formed between the ledge and the sidewall and extending below the portion of the ledge to form an annular space between a portion of the peripheral wall adjacent the knurl and the base disk for providing heat isolation thereto, as now claimed.

As neither Thiebaut nor Shuey disclose or suggest the combination of elements which form the invention of the subject Patent Application, their combination cannot make obvious the invention of the invention of the subject Patent Application, as now claimed.

In the Official Action, the Examiner rejected Claims 4 – 6 under 35 U.S.C. § 102(b), as being anticipated by Sidebotham, U.S. Patent No. 1,904,331. The Examiner stated that the Sidebotham reference disclosed a container including a

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base disk having a knurl formed by the bend in the material, a ledge, a sidewall and a lip ring formed by the upper curl.

It is respectfully submitted that the Sidebotham reference discloses a drinking cup having a body 10 with its lower margin turned inwardly to provide a folded edge 11 and an upwardly extending ring portion 12 from which a flange 13 extends inwardly. Further, a bottom disk 124 having a downwardly projecting edge flange 15 that is sized to snugly fit the annular recess formed by the ring portion 12 and the flange 15.

Thus, the base disk 14 is formed with a downwardly bent peripheral edge and no annular knurl. It appears that the Examiner equates the folded edge 11 to applicant's knurl, and thus the knurl in this reference is formed in the peripheral wall, and not at the base disk, as claimed. Further, the Examiner notes "that an annular space is formed between the outer wall at 12 where the wall extends upwardly at an angle and the base disk". However, that annular space is internal to the cup, and open to the fluid contained therein, and thus cannot provide heat isolation. Thus, the reference fails to disclose a base disk having an upwardly bent peripheral edge and an annular knurl disposed adjacent the upwardly bent peripheral edge, as now claimed. Further, the reference fails to disclose an inner face of the upwardly bent peripheral edge of the base disk being engaged with an outer face of the sidewall and the ledge being engaged with a corresponding portion of the central portion of the base disk, the knurl extending below the ledge and defining an annular space between a portion of the upwardly bent peripheral

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edge adjacent the knurl and the peripheral wall for providing heat isolation thereto,

as now claimed.

As the reference fails to disclose each and every one of the elements of the invention of the subject Patent Application, as now claimed, it cannot anticipate that invention. Further, as the reference fails to suggest such a combination of elements, and in fact teaches away from that combination, it cannot make obvious that invention either.

For all the foregoing reasons, it is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

Respectfully submitted,  
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For: ROSENBERG, KLEIN & LEE

  
DAVID I. KLEIN

2/6/2006  
Date